Exhibit 3

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<u>**VIA EMAIL**</u>

Debera W. Hepburn
Hepburn Law Firm PLLC
P.O. Box 118218
Carrollton, Texas 75011

Re: nXn v. Yahoo! Inc. et al. & Bright Response v. Yahoo! Inc. et al.

Dear Debera:

Thank you for your recent communications regarding source code in both the nXn and Bright Response lawsuits. I am writing to address the issues raised in those communications.

First, I have investigated Mr. Bustamante's allegations that all of the source code produced by Yahoo for the nXn lawsuit related to "Yahoo's pricing model for its advertisements" and that none of the produced code is relevant to the lawsuit, and I can confirm that Mr. Bustamante is incorrect on both points. The source code that was produced by Yahoo relates to the type of information that Yahoo gathers about certain of its users and the ways in which Yahoo gathers this information. We believe that this code is relevant to the lawsuit, and I note that nXn's attorneys and/or its technical expert requested physical printouts of many, many portions of this code. Indeed the physical copies of the source code requested spans nearly 100 pages. I find it hard to believe that nXn's attorneys and/or its technical expert would have requested nearly 100 pages of source code that was completely irrelevant to the lawsuit.

Second, with respect to nXn's request for additional source code, we are in the process collecting source code that corresponds to plaintiff's requests, to the extent that Yahoo has such source code, and loading it onto a laptop for shipment to Dallas. We expect to make the source code that we are able to identify available for inspection by November 2.

Third, in response to your letter of Friday regarding additional source code for the Bright Response lawsuit, we believe that at least some of that source code has already been made available for inspection, and we are endeavoring to explain where it can be found. To the extent that Yahoo has additional source code that is responsive to your additional requests, we will make it available for inspection. Having received your letter on Friday, we will not be able to make any additional source code available for inspection today in Dallas. We are in the process of gathering that code, and when you have completed the review of the current source code, we will have the additional code added to the laptop and returned for your continued review. As you know, Yahoo previously committed to make source for the Bright Response lawsuit available for inspection in Dallas on October 7. To ensure that we met this deadline, Yahoo collected source

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code and loaded it on a laptop well prior to that date. As such, we were unable to accommodate requests for additional source code at the time we made our initial production of source code. However, as noted above, we will continue to work with you to attempt to address any requests for additional source code that is relevant to the matters at issue in the lawsuit.

Fourth, since we are dealing with source code productions in two parallel lawsuits, I wanted to address a couple of issues regarding logistics. We have, thus far, kept the source code productions for the two cases separate, largely for the convenience of the parties, as it appeared that the lawsuits dealt with different aspects of the accused systems. As nXn and Bright Response have requested additional source code in both cases, there is an increasing overlap in the source code requests for the two cases, as source code already provided in one case may be responsive to plaintiff's request for additional source code in the other case. As I discussed with Mr. Bustamante last week, if Bright Response or nXn believes that source code reviewed in one case is relevant to the other case, the plaintiff is welcome to request that physical copies of the source code be produced for one or both of the cases. Since counsel and the technical expert are the same for both Bright Response and nXn, we wouldn't expect this to be a problem. However, it may be even more efficient if we were to combine the two productions onto a single laptop to facilitate further review of the source code. Please let me know if you have any objection to Yahoo adopting this approach going forward.

As I have in previous letters, I would like to again invite you to call me to discuss any remaining issues regarding Yahoo's source code production, since I believe that can address such issues more efficiently and effectively than we can by continually writing letters back and forth.

Sincerely,

s/Jason C. White

Jason C. White

JCW:gf